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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO
individually and on behalf of all similarly
situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 4:20-cv-03664-YGR-SVK

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

CIVIL L.R. 79-5

Judge: Hon. Yvonne Gonzalez Rogers
Date: September 20, 2022
Time: 2:00 p.m.

Pursuant to Civil Local Rule 7-11 and 79-5 and the Stipulated Protective Order entered in this matter, Dkt. 81, Plaintiffs respectfully submit this Administrative Motion to Seal the following material submitted with Plaintiffs' motion for class certification.

Document or Portion of Document Sought to Be Sealed	Party Claiming Confidentiality	Basis for Sealing
April 15, 2022 Expert Report of Jonathan Hochman ("Hochman Report"): Portions highlighted in yellow in paragraphs 88-90, 116, 174-78, 224-25, 234, 236, 243, 246-47	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix B: Portions highlighted in yellow in paragraphs 11-13, 18-23, and the entirety from pages 17 through 36	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix G: Portions highlighted in yellow in paragraphs 7-8, 24, 26	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix H: Portions highlighted in yellow in Table of Contents and paragraphs 1-41	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix I (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Exhibit B (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Exhibit C (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Exhibit D (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Exhibit E (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Exhibit F (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs

		pursuant to the Protective Order
June 7, 2022 Rebuttal and Supplemental Expert Report of Jonathan Hochman (“Hochman Rebuttal”): Portions highlighted in yellow in paragraphs 22-23, 30, 38-47, 67-69	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Exhibit A (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Exhibit B (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix A (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix B (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix C (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix D (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix E (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix F (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix G (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix H (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order

1	Hochman Rebuttal Report Appendix I (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
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3	Hochman Rebuttal Report Appendix J (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
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5	Plaintiffs’ Motion for Class Certification: portions highlighted in yellow throughout	Google	Refers to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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8	Plaintiffs’ Trial Plan in Support of Motion for Class Certification: portions highlighted in yellow throughout	Google	Refers to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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11	Plaintiffs’ Proposed Order in Support of Plaintiffs’ Motion for Class Certification: portions highlighted in yellow throughout	Google	Refers to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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14	Mao Declaration in Support of Plaintiffs’ Motion for Class Certification: Entirety of Exhibits 1-14, 16-62, 64-86	Google	Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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17	Expert Report of Jonathan Hochman (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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20	Rebuttal and Supplemental Expert Report of Jonathan Hochman (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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24	Expert Report of Bruce Schneier (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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1	Rebuttal Expert Report of Bruce Schneier (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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4	Rebuttal Expert Report of Mark Keegan (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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8	Rebuttal Expert Report of David Nelson (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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11	Expert Report of Michael Lasinski (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
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15 I. LEGAL STANDARD

16 A. Party Seeking to Seal Its Own Records

17 “The public has a right of access to the Court’s files.” Civil L.R. 79-5(a). The presumption
18 of public access can be overcome where the sealing party “articulate[s] compelling reasons
19 supported by specific factual findings . . . that outweigh . . . public policies favoring disclosure
20 such as the public interest in understanding the judicial process.” *Kamakana v. City & County of*
21 *Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006) (citations omitted). Courts “must
22 conscientiously balance the competing interests of the public and the party who seeks to keep
23 certain judicial records secret.” *Id.* (citing *Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d
24 1122, 1135 (9th Cir. 2003)) (marks omitted).

25 B. Party Seeking to Seal Another Party’s Records

26 Many of the documents listed above quote, summarize, or otherwise reflect information
27 that Defendant, Google LLC (“Google”) has designated as “Confidential” or “Highly Confidential

– Attorneys’ Eyes Only” under the parties’ stipulated protective order. Dkt. 81. Pursuant to Civil Local Rules 79-5(c)(1) and 79-5(f)(3), Google, as the designating party, bears the burden of establishing that all of the designated material is sealable. At present, Plaintiffs take no position as to whether the material Google designated under the protective order is sealable.

II. ARGUMENT

Plaintiffs seek to seal portions of the two expert reports submitted by their technical expert, Mr. Jonathan Hochman. These portions contain material that Plaintiffs are designating “Confidential” pursuant to the parties’ stipulated Protective Order. Specifically, the portions sought to be sealed associate one of the named Plaintiffs (or their experts) with various identifiers and information related to their browsing. *E.g.*, Hochman Report ¶ 234 (“GOOG-BRWN-00819830 shows Plaintiff Jeremy Davis’s Google Account ID [], name, email address, IP address [], and user agent.”). In that example, Plaintiffs merely seek to seal the Google Account ID number and IP address. In other cases, Plaintiffs seek to seal spreadsheets containing records produced from Google’s logs and summaries thereof—where Mr. Hochman has listed the Plaintiffs’ names alongside browsing history and identifiers, *e.g.*, Hochman Report App. I, which Plaintiffs expect Google will in any event seek to seal since it contains the names of Google logs and identifiers. Plaintiffs’ narrowly tailored proposals “will not interfere with the public’s ability to understand the judicial process.” *Ojmar US, LLC v. Sec. People, Inc.*, No. 16-cv-04948-HSG, 2016 WL 6091543, at *2 (N.D. Cal. Oct. 19, 2016). Plaintiffs are not seeking to redact any of Mr. Hochman’s opinions.

Furthermore, “an individual’s privacy interest” is a compelling reason to seal a document. *Nursing Home Pension Fund v. Oracle Corp.*, No. C01-0100988 MJJ, 2007 WL 3232267, at *2 (N.D. Cal. Nov. 1, 2007) (allowing redaction of home addresses and financial account information); *Pension Plan for Pension Tr. Fund for Operating Eng’rs. v. Giacalone Elec. Servs., Inc.*, No. 13-cv-02338-SI, 2015 WL 3956143, at *10 (N.D. Cal. June 29, 2015). This Court has previously granted substantially similar motions to seal these (and other alike) materials in the

related case of *Calhoun v. Google LLC*. See, e.g., No. 4:20-cv-05146-YGR-SVK (N.D. Cal.), Dkt. 198 (sealing *Calhoun* plaintiffs' web browsing history and information).

Additionally, public exposure of the information that Plaintiffs seek to seal could subject Plaintiffs to a risk of identity theft. See, e.g., *Adkins v. Facebook, Inc.*, 424 F. Supp. 3d 686, 689 (N.D. Cal. 2019) (recognizing that identifiers enable malicious actors to access consumers' accounts); *McDonald v. CP OpCo, LLC*, 2019 WL 34370, at *9 (N.D. Cal. Jan. 28, 2019) (sealing email addresses, recognizing that the email addresses "could become a vehicle for improper purposes").

III. CONCLUSION

For the reasons articulated herein, Plaintiffs respectfully request that the Court grant their Administrative Motion to Seal.

Dated: June 20, 2022

Respectfully submitted,

By: /s/Mark Mao

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